

Tabalanza v. Ashcroft, No. 02-71969

SEP 30 2004

KLEINFELD, Circuit Judge, concurring:

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

The majority takes too expansive a view of the modified categorical approach by taking account of things other than “the charging documents in conjunction with the plea agreement, the transcript of a plea proceeding, or the judgment to determine whether the defendant pled guilty” to an aggravated felony.¹ I think (though there is room for doubt) the authorities we must follow would lead to the same result under the categorical approach, so I am concurring rather than dissenting.

¹ United States v. Corona-Sanchez, 291 F.3d 1201, 1211 (9th Cir. 2002) (en banc).